IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 1844 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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JASVANTRAI GORDHANDAS DAVE - Petitioner(s)

Versus

DEPUTY EXECUTIVE ENGINEER & ANR. - Respondent(s)

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Appearance :
Shri T.R. Mishra for Petitioner(s).
Shri I.M. Pandya, Assistant Government Pleader for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 03/07/2007

ORAL JUDGMENT

The petitioner-workman, being aggrieved by the award

dated 18th August, 1999 passed by the learned Presiding Officer, Labour Court, Bhavnagar in Reference (LCB) No.524 of 1990, is before this Court with a submission that the learned Labour Court did not appreciate that the petitioner had worked for 240 days or more and in view of the circular of the State Government, the petitioner, who had worked for more than ten years, would be entitled to the status of a permanent employee.

2. From the records, it would clearly appear that the petitioner was examined as a witness and in his statement dated 21st March, 1995, he stated that he was removed from the services on 8th December, 1988, some work was taken from him between 22nd June, 1990 and 22nd July, 1990 and thereafter, he was again removed. From his own statement, it would be clear that in twelve calendar months just preceding the date of retrenchment, that is, commencing from 22nd July, 1990, he did not work for 240 days or more. If that be so, the provisions of Section 25-F of the Industrial Disputes Act, 1947 would not apply.

3. So far as the alleged circular is concerned, the same has not been filed before this Court, but, Shri Mishra submits that the effect of the circular is that if somebody is continued as a temporary or *ad hoc* employee for ten years prior to 1990, then, he would gain the status of a permanent employee and such person would not be removed from the

service. From the statement of the petitioner, it would appear that he worked for the period between 1981 to 1984, thereafter he was removed and he was again engaged on 22nd June 1990. From his own statement, it would not appear that he had worked for a period of ten years and had acquired the status of a permanent employee. Under the circumstances, I am unable to hold that the petitioner could not be removed from the services.

4. For the aforesaid reasons, I am unable to find any reason to make an interference in the award made by the learned Labour Court.

5. The petition is dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**